IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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JUDGMENT

Rajasthan State Industrial Development & Investment corporation

vs

Shri Ganpat Rai & Ors.

D.B. CIVIL SPECIAL APPEAL NO.309/1993 AGAINST THE ORDER DATED 14.7.1992 PASSED IN S.B. CIVIL WRIT PETITION NO.672/1990

DATE OF ORDER : 29th August, 2006

REPORTABLE

PRESENT
HON'BLE THE CHIEF JUSTICE SHRI S.N. JHA
HON'BLE SHRI MOHAMMAD RAFIQ,J.

Mr.M.R. Singhvi, Advocate, for the appellants.
Mr.V.K. Jain respondent present in person.
Mr.Avinash Acharaya, Advocate for the respondents.

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BY THE COURT (Per Hon'ble Shri Mohammad Rafiq, J.): -

This special appeal is directed against the order dated

14.7.1992 whereby the learned Single Judge while allowing the writ petition of the respondent herein quashed and set aside the order Annex.9 dated 15th Sept., 1973 and also the consequential notice Annex.16 dated 22.1.1980. By the impugned order Annex.9 dated 15th Sept., 1973, the RIICO, namely,the appellant herein cancelled part of the land allotted to the respondents for setting up of Vegetable Oil Manufacturing Industry (in short Industry). The State Government through Collector, Sri Ganganagar executed a lease deed jointly in favour of the respondents Vijay Kumar Jain S/o Shri Rishab Dasji and Ganpat Rai S/o Late Shri Kaluramji on 5.2.1970 thereby leasing out a plot of land measuring 450'x210' situated in their industrial estate, Sri Ganganagar for the purpose of setting up Industry. Apart from various other conditions, condition no.4(iv) of the lease deed stipulated that the lessee shall set up in the said plot of land an Industry for which land has been leased out to them by the lessor within a period of one year from the date of delivery of its possession subject to the condition that construction shall be started on the plot within a period of three months from the date of delivery of possession and further the same would be completed within

next six months' or such period as may be extended by the Director of Industries and further that machinery shall be installed and production shall be started within next three months. This condition further provided that in case of failure of the lessee to do so, the said plot shall revert to the lessor unless the period of one year is further extended by the lessor on valid ground. When the respondents failed to fully utilize the land allotted to them, by setting up Industry and rather intended to use it for a different purpose, the Dy. Director, Industries served upon them a show cause notice on 7th June, 1973 (Annex.6) stating therein that since the respondents have set up a Dal Mill in the subject plot in contravention of the Rajasthan Industrial Area Allotment Rules, 1959 (in short the Rules of 1959) and further that they have started construction towards the northern strip of plot for a Cotton Ginning Factory for which also no permission was granted to them. By this notice, the respondents were required to show cause as to why the allotment of land excluding 25' to the north of the wall of the Oil Mill be not cancelled.

The respondents replied to the aforesaid show cause

notice on 18.6.1973 (Annex.7). In the reply, which was addressed to the Director of Industries it was stated that when the Director visited the Industrial Estate, Sri Ganganagar,the respondents had explained to him all the unavoidable circumstances owing to which Vanspati Mill could not be established and, thereupon, the Director gave them verbal permission to set up Ginning & Pressing Plant and accordingly instructed the District Industries Inspector to make available cement bags also for construction thereof. A separate representation was submitted by the respondents to the Secretary to the Government, Industries Department, Rajasthan Jaipur requesting him to instruct the Director of Industries not to cancel allotment of disputed plot. The Director Industries however by his order dated 15th Sept., 1973 cancelled allotment of land excluding the land on which the respondents had set up an Oil Mill upto 25' to the north of the wall of the said oil mil on the premise that the respondents failed to utilize the allotted land for the purpose for which it was alloted to them and violated other conditions of allotment.

Total land area of the industrial plot allotted to the

respondents was in the size of 450'x210' ad measuring 94500 sq. feet, out of which, size of plot which the respondents were allowed to retain was 124'x210' measuring 26040 sq. feet. Size of the remaining area of the plot allotment of which was cancelled was therefore 326'x210' measuring 68460 sq. feet.

Aggrieved by cancellation of the allotment, the respondents field writ petition before this Court being S.B. Civil Writ Petition No.1432/1973, which they later withdrew on 5th May, 1982 with liberty to institute fresh one if necessary. According to the respondents, they were prompted to withdraw the said writ petition because of an assurance held out to them by the District Industries Officer, Sri Ganganagar that they would regularize the matter provided the writ petition was withdrawn. Subsequent thereof, the District Industries Officer by his communication dated 2.6.1982 inquired from the respondents as to in what time, they would set up the industry and pay outstanding dues and further whether they would withdraw the writ petition pending before this Court. It is interesting to note that even though the respondents

replied to the said communication on 6th June, 1982, they still maintained that in view of the spirit of compromise and assurance given by the authorities, they were prepared to withdraw the writ petition and had in fact instructed their counsel to withdraw the same whereas in fact, the writ petition already stood withdrawn on 5th May, 1982. In the meantime, the Director of Industries vide his communication dated 27.2.1986 required Dy. Director District Industries Center, Sri Ganganagar to scrutinize the proposal of the respondents in the light of the existing guidelines and instructions and discuss the same with Regional Engineer, RIICO and thereafter, forward his proposals to the Directorate. The District Manager, District Industries Center, Sri Ganganagar forwarded his proposal to the Director, Industries vide his letter dated 22.3.1986. The Directorate however, by their letter dated 19th May, 1986 returned the papers back to the District Industries Center, Sri Ganganagar with the note that as per the Rules of 1959, the RIICO has since been authorized to deal with all the incidental and residual matters and, therefore, the District Industries Center should make scrutiny of the whole case at their own level. Finally, the RIICO by its notice

dated 22.1.1990 required both the respondents to show cause within a period seven days as to why the land in question may not be allotted to other enterpreneours.

The respondents at that stage filed writ petition which has given rise to present special appeal. The writ petition was filed on the premise that the cancellation of allotment by the State Government was ultra vires of the Rules of 1959. It being lessor could cancel the allotment only if lessee (respondents) failed to set up industry within two years according to Rule 7 of the said Rules. Since the allotment of the land in question was made for the purpose of setting up an industry, which has been duly set up and started within three or four months from the date of allotment, the cancellation could not be made. Lease deed in favour of the respondents was executed for a period of 99 years and the lessor could not dispossess the lessee before the expiry of such period. When the then Director of Industries Shri Anil Boradiya visited Sri Ganganagar in a function, he had permitted the respondents to set up Oil Mill and Ginning Factory on the disputed land and the said assurance was substantiated from the affidavits of three

reputed businessmen, who attended the said function. The State Government could not now cancel allotment and also could not refuse permission to set up other kind of industry on land in question. Cancellation of allotment has been made without application of mind. When the respondents had favourably responded to the proposal submitted by the District Industries Officer in their letter dated 2nd June, 1982, allotment of the land could not be cancelled. It was therefore prayed that the cancellation order dated 15th Sept., 1973 and the subsequent communication of RIICO to the respondents dated 22.1.1980 be quashed and set aside.

While the State Government, Director, Industries and District Industries Officer, Sri Ganganagar filed a common reply, RIICO filed a separate reply to the writ petition. The State Government in its reply came out with the plea that the respondents had submitted project report for setting up Vegetable Oil Industry with an investment of Rs.35 lacs. However, when they failed to set up such Industry because of their failure to take effective steps for establishing such Industry within stipulated time, the Central Government refused to grant the licence. Cancellation of allotment in

relation to part of land was rightly made and the possession of such land was also taken. Although the respondents established Oil explorer, but failed to establish Vanspati Ghee Industries. As regards their request for setting up Dal Mill, it was stated that this was a very small unit in comparison to Vanspati Ghee Industries and, therefore, needed a very small piece of land. On the proposal of the respondents to set up Cotton Ginning Factory also, the stand of the Government was that setting up such plant also needed small piece of land. Besides this, it was also stated that the respondents were frequently changing their mind and coming out with different proposals at different stages one after another with the sheer purpose of retaining the land by hook and crook because the land prices in the meantime have appreciated enormously. They therefore prayed that writ petition may be dismissed.

The RIICO in its reply referred to rule 11-A and 12 of the Rules of 1959 and submitted that pursuant to such rules the industrial area in question has now been put in their charge. They placed on record copy of the order dated 15th Sept., 1979 issued by the Government in its Department of

Industries in which it has been provided that all the Industrial Estates set up and controlled by Industries Department would stand transferred to RIICO w.e.f. 1.10.1979. They placed on record copy of show cause notice dated 17th Sept., 1973, which were served upon the respondents requiring them to send their representative at the site of the plot to hand over its vacant possession to the RIICO. The have also placed on record copy of the possession memo prepared at site at 2.45 PM on 17th Sept., 1973 to the effect that they had taken possession of the disputed plot.

The writ petition filed by the respondents was allowed by the learned Single Judge vide impugned order dated 14th July, 1992 on the premise that the respondents were prevented from setting up Vegetable Oil Industry for reasons beyond their control. The respondents had already set up an Oil Mill and a Dal Mill on the disputed land and started construction of Ginning Factory when notice was issued on them. The fact that allotment of part of the plot was not cancelled shows that the lessor State of Rajasthan had no objection to the lessee making use of land for

establishment of an Oil Mill. Accordingly, the condition no.1 of the lease deed which restricted use of the land for setting up of Vegetable Oil Industry was not violated. There was no term or statutory provision for cancellation/reversion of the plot in question. The State Government had not taken a decision on the request of the respondents to either grant or refuse the permission to set up Dal Mil on the plot and therefore, the State as a lessor could not invoke condition no.4 (iv) of the lease deed. Order of cancellation dated 15th Sept., 1973 cannot be considered to be operative against the respondents because they withdrew the writ petition on the assurance that they would be permitted to set up another kind of factory on the disputed land. The RIICO being only an assignee of the State of Rajasthan was not lessor of the respondents and, therefore, it could not invoke clause 4(iv) of the lease deed and issue cancellation order Annex.9. Rule 11-A which was inserted in the Rules of 1959 w.e.f. 23rd Dec., 1983 merely authorized the State Government to allot land to RIICO for developing and setting up industrial area and such rule can only apply prospectively after 23rd Dec., 1983. Land in question having been allotted to the respondents in the year 1970,

such rule would not apply to their case. Rule 12 of the Rules also does not apply to this kind of allotment. The learned Single Judge further held that even according to Rule 12 of the Rules of 1959, the RIICO does not enjoy the same power with regard to the plot in question as it enjoys about the vacant plots and land allotted to the enterpreneurs by it. It has no right to impose fresh conditions on previously allotted lands. The District Industries Officer by his letter dated 2.6.1982 having called upon the respondents to withdraw the writ petition and put forward proposals for establishing alternative industry, the right of the lessor under condition no.4(iv) of the lease deed stood waived. The writ petition was accordingly allowed, Hence, this special appeal.

We have heard Shri M.R. Singhvi, learned counsel for the appellant RIICO and Shri V.K. Jain, respondent no.2 and Shri Avinash Acharaya, learned counsel for the legal representatives of respondent no.1 Shri Ganpat Rai.

At the outset it may be noticed that respondent no.1 Shri Ganpat Rai expired during the pendency of the present

appeal on 31.8.2001. This fact was brought on record by respondent no.2 vide his application filed on 12th July, 2003. The respondent no.2 also placed on record the particulars of legal representatives of the deceased Shri Ganpat Rai and prayed that they having not brought on record, the appeal should be held to have abated. Subsequently, the learned counsel appearing for Shri Ganpat Rai also filed an application on 18.8.2003 in which it was stated that late Shri Ganpat Rai had made a will before his death on 7th Jun, 2001 under which he had bequeathed his share in the partnership firm of Sri Ganganagar Vegetable Oil Mill (in which the respondents no.1 and 2 were partners) in favour of his younger son Shri Hemant Kumar. It was stated that respondent no.2 Shri Vijay Kumar Jain had filed a suit against the respondent no.1 Shri Ganpat Rai during his life time pertaining to the use of the disputed plot. It was submitted that the legal representatives of respondent no.1 deceased Ganpat Rai tried to settle the dispute with RIICO but the respondent no.2 was taking non-cooperative attitude. In both the applications filed separately on behalf of the legal representatives of respondents namely Hemant Kumar and Ratan Lal, it was prayed that their

names in the capacity of legal representatives of deceased Ganpat Rai be taken on record. When these applications came up for arguments, this Court by its order dated 22.11.2004 directed that the appeal shall itself be heard for final disposal on 12.1.2005 and hearing on such applications shall also be made on the said date. The appeal remained pending and finally came up for hearing on 13th July, 2006 on which date, the arguments of the parties were heard and concluded.

Shri Vijay Kumar Jain respondent no.2 in support of the application filed under Order 22 Rule 4 read with Rule 11 CPC argued that since the respondent no.1 Shri Ganpat Rai expired on 31.8.2001 and the appellants have not taken any steps to bring on record his legal representatives, the present appeal abated automatically. As regards two applications filed on behalf of the legal representatives of Ganpat Rai, he argued that such applications cannot be maintained and the learned counsel appearing for these two legal representatives of Ganpat Rai could not be permitted to argue the case because no Vakalatnama on their behalf was filed by him inasmuch as there was no

formal order bringing the legal representatives on record. He relied upon various reported judgments and argued that mere presence of Ratan Lal and Hemant Kumar before this Court could not save the appeal from being abated. He also argued that apart from application under Order 22 Rule 4 CPC for taking legal representatives on record, application under Order 22 Rule 9 CPC was required to be filed for setting aside abatement of appeal. In the absence of duly executed Vakalatnama by the legal representatives of the deceased respondent no.1, the counsel representing them before this Court cannot be permitted to argue. He in this connection referred to the provisions of Order 3 Rule 4 CPC and also relied upon judgments in the case of Chhita Vs. Mt. Jaffo & Ors reported in AIR 1931, Allahabad 767, Ramkaran Vs. Shrikishan & Ors reported in AIR 1976 Raj.130, Mian Bashir Ahmad Vs. Mrs. Mary Minck reported in AIR 1938 Lahore 698.

We have considered these two objections raised by Shri Vijay Kumar Jain, one regarding abatement of appeal and other regarding competence of the counsel, who filed application on behalf of legal representatives of deceased

Shri Ganpat Rai.

We may at the outset state that the provisions contained in the Code of Civil Procedure cannot be applied to the writ proceedings under Article 226 of the Constitution of India with the same amount of rigidity as they may be applied to a civil suit or an appeal arising out of such civil suit. It is trite law that rules of procedure are hand made for imparting justice and therefore they are meant to sub serve the ends of justice rather than defeating them. Rules of procedure especially in the context of facts obtaining in the present case cannot be so interpreted as to occasion miscarriage of justice.

Adverting to the question of abatement of appeal, it may be noted that lease deed in the present case pertaining the plot in question was executed by the lessor jointly in favour of two lessees, namely respondent no.1 Ganpat Rai and respondent no.2 Vijay Kumar Jain. Cancellation of the lease pertained to one common plot, therefore, in the present case, one of the two original respondents was already represented before this court, the appeal cannot be

therefore taken to have abated in its entirety more particularly, when particulars of the legal representatives of Shri Ganpat Rai were placed on record by the respondent no.2 himself in his application dated 18th July, 2003 and those legal representatives themselves have come forward and applied for substitution of respondent no.1 and their impleadment as his legal representatives. The respondent no.2 therefore cannot be allowed to raise any objection for their impleadment in place of respondent no.1. This appeal arises out of a writ petition filed under Article 226 of the Constitution of India and when during the pendency of appeal, legal representatives of respondent no.1 applied for substitution of respondent no.1 by their names, even if belatedly, their application can not be dismissed for a technical reason that they have not filed the same within the period of limitation prescribed by Order 22 Rule 4 CPC and on a still more technical ground that they did not file separate application under Order 22 Rule 9 CPC for setting aside abatement. We therefore hold that the appeal does not abate because of the presence of surviving respondent no.2 and also because the application for bringing on record the legal representatives of respondent no.1 merits

acceptance and is hereby allowed the deceased respondent no.1 is substituted by his legal representatives namely, Hemant Kumar and Ratan Lal.

Now coming to the question of the authority of the advocate who represented Ganpat Rai to file application for bringing his legal representatives on record without filing Vakalatnama on their behalf, it may be stated that all those judgments, which the respondent no.2 relied upon are with regard to interpretation of Order 3 Rule 4 CPC arose out of civil suit. The law enunciated in such case cannot be applied in writ proceedings under Article 226 of the Constitution of India. The present appeal arises out of a writ petition filed under Article 226 of the Constitution of India. The provisions contained in Order 3 Rule 4 PC merely provides that no pleader shall act for any person in any Court, unless he has been appointed for the purpose by such person by a document in writing signed by such person or by his recognized agent or by some other person duly authorized by or under a power-of-attorney to make such appointment. Sub Rule (5) of Order 3 Rule 4 CPC merely requires that no pleader who has been engaged for

the purpose of pleading only shall plead on behalf of any party, unless he has filed in Court a memorandum of appearance signed by himself and stating the names of the parties to the suit, the name of the party for whom he appears; and the name of the person by whom he is authorized to appear. Even if we examine the applicability of provisions of sub-rule (5) of Order 3 Rule 4 CPC to the facts of the present case, we find that two applications were filed by the learned counsel on behalf of Hemant Kumar and Ratanlal, both legal representatives of respondent no.1. All those requirements, which are envisaged in sub-rule (5) of Order 3 Rule 4 CPC, are completely fulfilled in these applications namely, (a) name of the parties, (b) name of the party for whom he appears and (c) the name of person by whom he is authorized to appear, are very much available in these two applications. The first page of both the applications contains full title of the present appeal and at the end of the application it has been stated that the learned counsel was representing the applicant and in support of such application, affidavit has also been filed. Thus, the application had in all respects complete particulars and fullfiled all the requirement of memorandum

of appearance if at all one was needed.

This now takes us to the merits of the case. Learned counsel for the appellant has argued that learned Single Judge has not correctly appreciated the cancellation order dated 15th Sept., 1973 and the letter dated 2nd June, 1982 written by the District Industries Officer to the respondents. There was no warrant for inference form contents of the cancellation order that the appellant did not object to setting up of an Industry of different nature as has been done by the learned Single Judge. He further argued that the letter dated 2nd June, 1982 also cannot be construed as one extending any assurance to the petitioners that their matter would be settled if they withdrew the writ petition. Writing this letter to the petitioner could not have the effect of nullifying the cancellation order dated 15th Sept., 1973. He further argued that the Government vide its notification dated 15th Sept., 1979 had transferred all the industrial estates established and run by Department of Industries to the control and charge of RIICO w.e.f. 1st Oct., 1979. In such circumstances, the letter written by District Industries Officer to the respondents on 2nd June, 1982 was of no

consequence because he had no authority to regularize the use of land for any other purpose than one for which the land was originally alloted. Learned counsel for the appellant further argued that finding recorded by the learned Single Judge to the effect that on account of letter dated 2nd June, 1982, the right of the lessor to invoke condition 4(iv) of the lease deed would stand waived was also not warranted on the facts of the case. He further argued that allotment of only part of the land, which was not used for the specific purpose has been cancelled and respondents have been allowed to retain remaining part. Shri Ganpat Rai has since expired and his legal representatives Hemant Kumar and Ratanlal are before the court who are now having dispute with the respondent no.2 over the land in question. He has therefore prayed that the judgment passed by the learned Single Judge may be set aside.

On the other hand, Shri Vijay Kumar Jain the respondent no.2 and Shri Avinash Acharaya, appearing for legal representatives of respondent no.1 while supporting the judgment of the learned Single Judge argued that they

withdrew their earlier writ petition only on account of assurance held out to them. They could not establish the Industry because the Central Government did not grant licence to them and therefore they offered to make use of the vacant portion of the industrial plot for establishment of Dal Mill. Even that was not allowed by the State Government. The respondents therefore cannot be blamed for their failure to set up the industry on the disputed plot. They questioned the authority of RIICO on the ground that State Government was their original lessor therefore RIICO being its assignee only could not substitute the State as lessor. The notice dated 22.1.1980 issued by the RIICO was therefore bed in law. It has further been argued that the learned Single Judge was perfectly justified in holding that on account of letter dated 2nd June, 1982, the lessor waived its right to invoke conditions 4(iv) of the lease deed. It was therefore prayed that impugned judgment does not warrant any interference by this Court and the special appeal deserves to be dismissed.

We have bestowed our thoughtful consideration to the submissions made by the learned counsel for the parties

and perused the record.

We may first of all examine the argument of respondents as to if an assurance was actually held out to them by the District Industries Officer in his letter dated 2nd June, 1982 and acting on such assurance, they withdrew the writ petition. This argument does not stand scrutiny because the letter was written on 2nd June, 1982 whereas the writ petition had already been withdrawn of course with liberty to file fresh one if necessary on 5th May, 1982, even then, the respondents in their letter dated 6th June, 1982 addressed in response to letter dated 2nd June, 1982 maintained that keeping in view the spirit of compromise and assurance, they were prepared to withdraw the writ petition and accordingly, requested their counsel to withdraw the same. When the writ petition had already been withdrawn on 5th May, 1982, the respondents cannot be allowed to argue that it was only on account of the letter dated 2nd June, 1982 they were persuaded to withdraw the writ petition. We also cannot agree with the view taken by the learned Single Judge that the lessor waived his right to invoke condition 4(iv) of the lease deed on account of the

letter dated 2nd June, 1982 written by District Industries Officer to the respondents. There could not be no question of wavier of this condition because it was already invoked and acted upon and consequently the order of cancellation had already been issued on 15th Sept., 1973. Mere writing of letter dated 2nd June, 1982 by itself could not have the effect of nullifying the cancellation order dated 15th Sept., 1973 or making it non-existent. It is a fact that this order of cancellation was subject matter of challenge in earlier writ petition filed by the respondents which they later withdrew with liberty to file fresh one and did not challenge it later in any legal proceedings known to law. Thus cancellation of lease in regard to part of the allotted land could not be treated to have become nonest merely on account of letter written by District Industries Officers to the respondents. A reading of letter dated 2nd June, 1982 would make it clear that this letter was written in the context of legal opinion give by the Government Advocate on which District Industries Center was required to send demanded information to the Directorate of Industries. In our view, the learned Single Judge erred in concluding that condition no.4(iv) of the lease deed stood waived on

account of letter dated 2nd June, 1982.

The learned Single Judge in our view, was not correct in holding that allotment of part of the industrial plot could not be cancelled because there was no term or statutory provisions for cancellation/reversion of part of plot. It would be evident from the lease deed that the allotment of the land in the present case was made for setting up Industry which is evident from condition No.(1) of the lease deed. Similarly, condition 4(iv) also referred to the same use. In the show cause notice served upon the respondents, it was mentioned that the respondents have set up a Dal Mill in the plot without any permission from the Department of Industries, which was in contravention of the Rules of 1959. It was also stated that they have started construction towards the northern strip of plot for a Cotton Ginning Factory building without any permission from the department, which was again in flagrant disregard of the rules. It was in regard to this part of industrial plot that the lessor found that the lessee has violated condition of lease deed and, therefore, the lessor decided to only cancel this much of the land leaving aside part of the land, which

has actually been used for setting up Industry. This order to the extent it does not cancel part of the plot is favourable to the lessee. Order of cancellation with regard to the other part of land cannot be quashed only on the ground that allotment of industrial plot in respect to the entire land was not cancelled. When by virtue of condition 4(iv) of the lease deed entire land could revert to the lessor upon failure of the lessee to use the same for the purpose specified in lease deed, if only part of the land has been put to such use, remaining part can also legitimately revert to the lessor.

What is more, cancellation of allotment was made on 15th Sept., 1973 and the earlier writ petition was withdrawn on 5.5.1982, the respondents filed second writ petition enormously belated in the year 1990. The writ petition was therefore liable to be rejected for the reason of enormous delay and laches on the part of the respondents.

We need not to go into the question whether or not the RIICO by virtue of Rule 11A and Rule 12 of the Rules of 1959 had any authority to issue show cause notice dated

22.1.1990 because this show cause notice was only consequential to the cancellation order dated 15th Sept., 1973. The learned Single Judge has recorded a finding that Rule 11A and Rule 12 inserted respectively on 23rd Dec., 1983 and 13th July, 1982 in the Rules of 1959 being prospective in nature would have no impact so far as cancellation of the allotment by order dated 15th Sept., 1973. Part of the plot to the extent its allotment was cancelled and which reverted back to the lessor (State Government) by virtue of condition 4(iv) of the lease deed would certainly be an open land available with the State Government in the Industrial Estate set up by its Industries Department. When the State Government by notification dated 15th Sept., 1979 decided to transfer all such Industrial Estates which necessarily included not only open and vacant land but also the developed lands, the portion of the industrial plot allotment of which was cancelled, came under the control of the RIICO. We may also take note of the fact that allotment of the disputed land was cancelled more than three decades ago and in the meantime, land prices have enormously appreciated, which explains why the dispute arose between the respondent no.2 and the

respondent no.1 deceased Ganpat Rai and why the respondent no.2 has so vigorously opposed substitution of deceased Ganpat Rai by his legal representatives in the present proceedings.

For what has been discussed above, the present special appeal deserves to be allowed and is hereby allowed. The order of the learned Single Judge dated 14th July, 1992 is quashed and set aside and consequently, the writ petition is dismissed. There shall be no order as to costs.

(MOHAMMAD RAFIQ),J. **(S.N.JHA), CJ.**

c.p.goyal/-